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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,910	03/29/2006	Hans Brekle	R.305588	3842

2119 7590 11/23/2009  
RONALD E. GREIGG  
GREIGG & GREIGG P.L.L.C.  
1423 POWHATAN STREET, UNIT ONE  
ALEXANDRIA, VA 22314

EXAMINER
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COLEMAN, KEITH A

ART UNIT	PAPER NUMBER
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3747

MAIL DATE	DELIVERY MODE
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11/23/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,910	<b>Applicant(s)</b> BREKLE, HANS	
	<b>Examiner</b> KEITH COLEMAN	<b>Art Unit</b> 3747	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 July 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-31 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-30 is/are allowed.
- 6) ☒ Claim(s) 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claim 31 is rejected under 35 U.S.C. 102 (b) as being anticipated by Dombek ET al. (US Patent No. 5,542,827).**

With regards to claim 31, the patent to Dombek et al. discloses a pressure-holding valve (22) for a fuel injection system including at least one fuel valve device having a high-pressure region (52) and a low-pressure region (i.e. portion of 52 near end 48 ), the valve comprising a valve housing (i.e. housing 40) having a first connection (i.e. portion connected to cap 46) connectable to the low-pressure region and a second connection (82) connectable to the return of a fuel injection valve device (32, See Figure 1), a reciprocating valve cup (64) contained in the valve housing (40), a first spring device (62) prestressing the valve cup (64), a through opening (i.e. the bottom opening of 64) in the valve cup (64), a closing element (70) operable to close the through opening (See Figure 2); a second spring device (68) applying a prestressing force to the closing element (70) in order to maintain a minimum pressure in the return, and a pressure relief device (49) contained in the valve housing (40) between the first connection and the valve cup (64), the pressure relief device (49) being operable from

Art Unit: 3747

outside the valve housing (See Figure 2), wherein the pressure relief device comprises a pressure pin (49) that protrudes from the first connection (See Figure2) toward the valve cup (64), wherein the pressure relief device comprises a positioning disk (78) clamped between the second spring device (68) and the valve housing (64), the pressure pin (49) protruding from the positioning disc (78).

### ***Allowable Subject Matter***

Claims 12-30 are allowed.

### ***Response to Arguments***

1. Applicant's arguments filed 7/14/2009 have been fully considered but they are not persuasive.

### ***Applicant's Arguments***

Claims 12-31 remain in this application.

The examiner's allowance of claims 15-20 and 24-28 is gratefully acknowledged.

The examiner rejected claims 12-14, 21-23 and 29-31 as anticipated by Dombek et al. For rejections under 35 USC 102, even though the structure of Dombek et al. is not a valve, if the examiner can read every element of structure which is recited in the

Art Unit: 3747

claims on an element in Dombek et al., his rejection under 35 USC 102 is a valid rejection.

However, it is pointed out that the examiner's reading of the device of Dombek et al. is not appropriate. There are limitations recited in claim 12 which are not found in Dombek et al.

Claim 12 recites a first connection and a second connection. However, Dombek et al. has only one connection which he recites as inlet/outlet 44. The examiner has read the portion connected to cap 46 as the first connection of Dombek et al., and the connection 82 as the second connection. Applicant firmly believes that the structure disclosed by Dombek et al. at 46 is not a connection which is connectable to a low-pressure region. The area around 46 of Dombek et al. is completely sealed, and the seals make sure that this area is not connected to anything. Thus, the examiner's reading of the first connection cannot be correct. Element 48 of Dombek et al. is a cap which closes the end 48 of chamber 52. The examiner's reading of a first connection in Dombek et al. is simply not warranted by the teachings of Dombek et al.

The examiner also indicates that element 70 of Dombek et al. is a closing element. Dombek et al. indicates that 80 is a seal between pump pistons 54 and 56, so element 70, in cooperation with seal 80, does close the axial bore 60. However, the examiner is stretching the reference by calling element 70 a valve closing element, since

Art Unit: 3747

dement 70 does not open and dose anything as would be normal and accepted for a valve closing element.

And it is pointed out that claim 12 has been revised so as to specifically recite that the closing element is operable for alternatively opening and closing the through opening. These alternative functions are clearly not present in Dombek et al. The only function which element 70 of Dombek et al. accomplishes is, with the aid of seats 80, sealing between pistons 54 and 56.

Further, the examiner has read element 49 of Dombek et al. as a pressure relief device, but clearly it is not. Element 49 of Dombek et al. is the manually operated plunger for the pump of Dombek et al. As such, in cooperation with the seals 80, it must always maintain a seal so that chamber 52 remains a closed chamber. If it does not do this the pump of Dombek et al. would not work, it would not pump anything. Element 49 does not open or close any openings, and it does not relieve any pressure.

Element 49 does not provide communication from the second connection to the first connection, and it does not relieve pressure in the return as now recited in both of claims 12 and 3 I. The structure as disclosed by Dombek et al. simply does not teach a compaction anywhere near 46.

In fact, it is clearly stated by the disclosure of Dombek et al. that element 49 is manually operated to increase the pressure. It is clear from the disclosure of Dombek et al. that it never relieves the pressure.

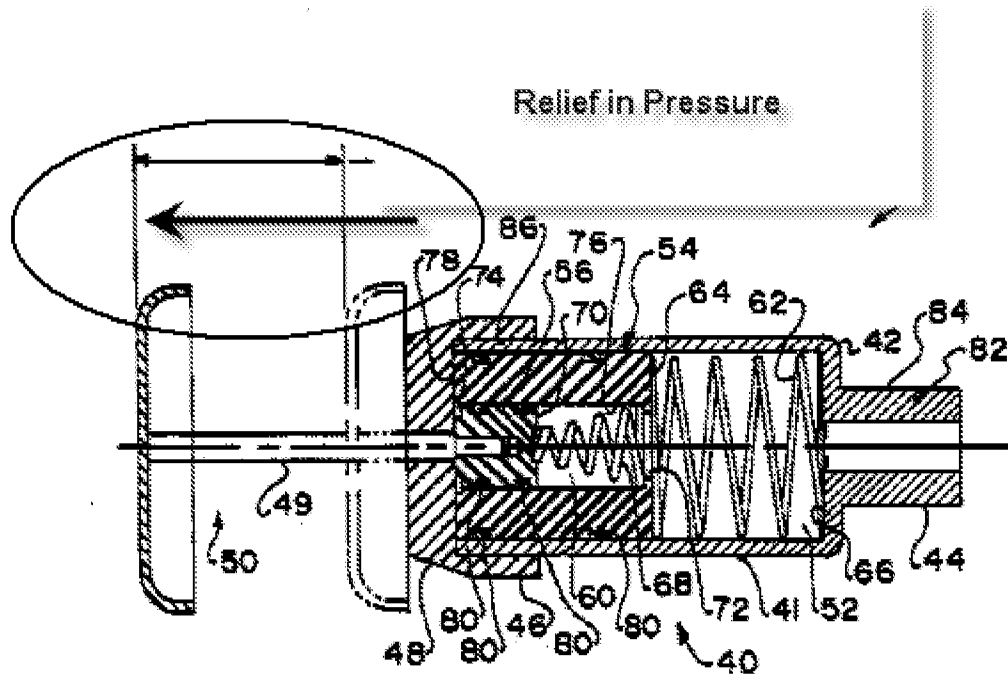
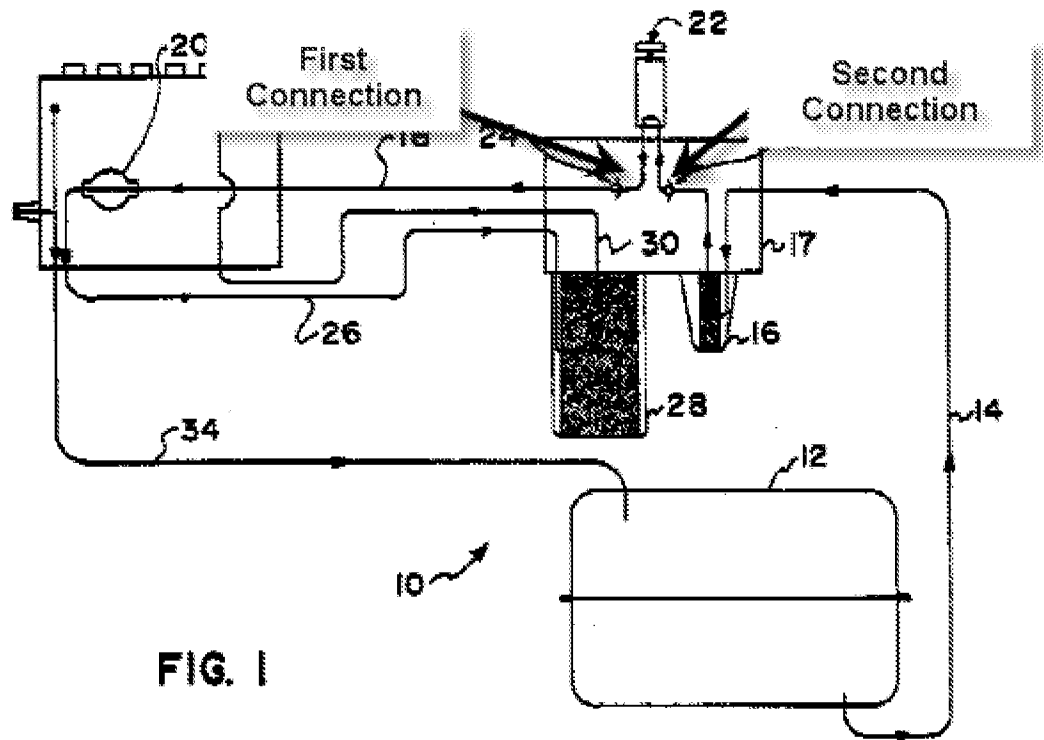
Moreover, Dombek et al. does not disclose a pressure holding valve such as recited in the claims of this application. A valve mechanism is a mechanism which opens and closes, and the structure of Dombek et al. does not do this. Dombek et al. is in fact a manually actuated pump; it does not open and close anything as a valve is well understood to do.

Even though, as noted above, the examiner's reading of Dombek et al. is inappropriate since Dombek et al. does not read on the structure as recited in claim 12, claim 12 has nevertheless again been amended to more clearly recite that the closing element is a means "for alternatively opening and closing the through opening". This gives the claim a definite recitation that the closing element has a further function which the structure of Dombek et al. clearly does not have.

### ***Examiner's Response to Arguments***

With regards to claim 31, Applicant has not added the level of specificity of claim 12 to claim 31 regarding the closing element. The patent to Dombek discloses the limitation of "so as to provide communication from the second connection to the first connection and thus relieve pressure in the return" as shown below.

Art Unit: 3747





Assuming no further broadening amendments are made to claims 12-30, either cancelling or further amending claim 31 would put this case in a condition for allowance. As such, this action is made final.

### ***Conclusion***

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEITH COLEMAN whose telephone number is (571)270-3516. The examiner can normally be reached on 5:30-4:00.

Art Unit: 3747

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Cronin can be reached on (571)272-4536. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KAC  
/K. C./  
Examiner, Art Unit 3747

/Stephen K. Cronin/  
Supervisory Patent Examiner, Art Unit 3747